

House Study Bill 35 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to proper parties in causes of actions
2 following the death of persons entitled or liable to such
3 causes of actions and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 611.22, Code 2021, is amended to read as
2 follows:

3 **611.22 Actions by or against ~~legal~~ personal representatives**
4 **or successors — substitution.**

5 Any action contemplated in sections 611.20 and 611.21 may
6 be brought, or the court, on motion, may allow the action to
7 be continued, by or against ~~the legal representatives either~~
8 a personal representative of the deceased's estate as defined
9 in section 633.3 or successors in interest of the deceased a
10 successor as defined in section 633.356, subsection 2. Such
11 action shall be deemed a continuing one, and to have accrued
12 to ~~such~~ the deceased's personal representative or successor at
13 the time it would have accrued to the deceased if the deceased
14 had survived. If ~~such~~ the action is continued against the
15 ~~legal deceased's personal representative of the defendant or~~
16 successor, a notice shall be served on the ~~legal deceased's~~
17 personal representative or successor, as in case of original
18 notices.

19 Sec. 2. APPLICABILITY. This Act applies to actions that
20 arise on or after July 1, 2021.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 Current law allows a deceased person's legal representative
25 or successor in interest to bring or continue certain actions
26 of the deceased. This bill amends current law to instead
27 allow the deceased person's personal representative or
28 successor to bring such actions. Personal representative is
29 defined to mean the executor or administrator of the deceased
30 person's estate and a successor is defined as the reasonably
31 ascertainable beneficiary or beneficiaries who succeeded to the
32 item of property under the decedent's will, if the decedent
33 died testate; if the decedent died intestate, the reasonably
34 ascertainable person or persons who succeeded to the property
35 under the laws of intestate succession of this state; and if

1 the decedent received medical assistance benefits from the
2 state, the Iowa Medicaid agency that provided the benefits.

3 The bill provides that a personal representative or
4 successor may have a suit brought, or the court, on motion,
5 may allow the action to continued, by or against the personal
6 representative or successor, by actions provided for under
7 Code sections 611.20 and 611.21. Code section 611.20 provides
8 that all causes of actions shall survive and may be brought
9 notwithstanding the death of the persons entitled or liable
10 to the same and Code section 611.21 provides that the right
11 of civil remedy is not merged in a public offense and is not
12 restricted for other violation of law, but may be enforced
13 independently of and in addition to the punishment of the
14 former.

15 The bill provides that a continuing suit will have accrued
16 at the time it would have if the decedent had survived. Notice
17 shall be served on the personal representative or successor as
18 in case of original notices.

19 The bill applies to actions that arise on or after July 1,
20 2021.